

# ANALYSIS OF AMENDED BILL

## Franchise Tax Board

Author: Burton/Schiff Analyst: Gloria McConnell Bill Number: SB 542

Related Bills: AB 196; AB 780 Telephone: 845-4336 Amended Date: 09/07/99

Attorney: Janet Ballou Sponsor: \_\_\_\_\_

**SUBJECT:** Child Support Enforcement

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended \_\_\_\_\_.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO \_\_\_\_\_.

☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED 07/12/99 STILL APPLIES.

☒ OTHER - See comments below.

### SUMMARY OF BILL

This bill, as it directly affects the Franchise Tax Board (FTB), would amend AB 196, which recently went to enrollment and is described under Legislative History. SB 542 would clarify that the transfer of the responsibilities and authorities to enforce collection of delinquent child support from the local agencies to the FTB would be for purposes of account receivable management and not case management, as defined, and for purposes of enhancing the promptness, efficiency and effectiveness of wage withholding. Under this bill:

- The definition of delinquency would be certain (i.e., accounts greater than \$100 and more than 60 days in arrears) and could not be superceded by Department of Child Support Services (DCSS) guidelines (which was not the intention of the author of AB 196 but otherwise would be allowed under that bill as enrolled).
- Any levies on wages for delinquent child support issued by FTB would be through the issuance of a notice of assignment (which is currently issued only by district attorneys (DAs)) and would be issued on behalf of and in the name of the county transferring the delinquency.
- The amount of an employee's wages subject to levy for delinquent child support under a notice of assignment would increase (from the greater of 3% of the arrearage or \$50) to that amount currently subject to levy through FTB's earnings withholding orders (up to 50% of the employee's disposable earnings).

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
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<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Department Director

Date

**Geoff Way for J. Rosas** **9/14/1999**

- When FTB identifies an employer to enforce payment of a child support delinquency and the obligor also owes an amount for current support, FTB would be required to include in the notice of assignment the current support amount.
- FTB would be required to direct obligors or third parties to make any payments directly to the local child support agency that transferred the delinquency to FTB, pending implementation of a state disbursement unit. Directing the payments to the local child support agency would be subject to phase-in, upon approval by DCSS, to the extent necessary to ensure that the local child support agency is capable of accepting payment.

Additionally, this bill delays from July 1, 2000, to January 1, 2001, the operative date for the Employment Development independent contractor registry.

This analysis addresses the definition of accounts receivable management and the above bulleted provisions. This analysis revises the first two Policy Considerations previously raised as they are affected by these amendments. This analysis also revisits the Implementation Considerations previously raised.

#### SUMMARY OF AMENDMENT

This amendment adds the above mentioned provisions as amendments to AB 196.

#### LEGISLATIVE HISTORY

AB 196 would create, within the California Health and Human Services Agency, the DCSS to replace the Department of Social Services (DSS) as California's Title IV-D agency. In addition, this bill would transfer from the DAs or new local child support agencies (county(s)) to the FTB the responsibility and authority to enforce collection of delinquent child support. This transfer would create and establish within the FTB a statewide child support delinquency enforcement program in support of the county through the DCSS.

Under this program, counties would be required to transfer to FTB all child support accounts greater than \$100 and more than 60 days in arrears or as otherwise defined by guidelines prescribed by the DCSS, in consultation with the FTB. However, the FTB could transfer back to a county or allow a county to retain a child support delinquency if the FTB determines the transfer or retention of the delinquency would enhance the collectibility of the delinquency. Upon transfer of the delinquency, FTB would have the authority to enforce collection of the delinquency as though it were a delinquent personal income tax liability.

Additionally, under AB 196, certain persons currently required under federal law to file an information return reporting non-employee personal services (independent contractor registry [ICR]) for which \$600 or more was paid would be required to accelerate the reporting of those services and payments to Employment Development Department (EDD), operative July 1, 2000. The reporting would be required by the earlier of 20 days after entering into the personal service contract with aggregate payments in excess of \$600 or when payments made exceed \$600. The information could be used for child support enforcement, tax enforcement and EDD purposes.

## SPECIFIC FINDINGS

### Policy Considerations

- FTB's previous analysis indicated that under this bill FTB's phase-in of the transferred cases would begin before and during the period that the case management functions are being transitioned from the DAs to the local child support agency, yet the transfer and transition are scheduled for completion at the same time, December 31, 2002. It was suggested that to the extent possible, additional thought should be given to the overall scheduling of events as it may be less disruptive to collections if the transfer of cases to FTB were accomplished either well before, well after or in conjunction with the plan for the transition of case management responsibility from the DA to the local agency. As amended, the bill requires that FTB's phase-in of the transfer of child support delinquencies would focus on the need to coordinate this transfer with the transition from the DAs to the local child support agency.
- The workloads created by this bill are in keeping with FTB's recognized core competency of enforcement of child support delinquencies. FTB's previous analysis indicated the bill could consider clarifying the case management functions from those that are accounts receivable management functions. As amended, the functions described as accounts receivable management are all related to enforcement activities and do not require FTB to perform functions that are clearly case management.

### Implementation Considerations

This bill would not significantly affect the implementation plan envisioned in the analysis of the previous version of the bill. Key to the success of FTB's program and the removal of any obstacles will be cooperation and close communication among FTB, the local child support agency and the DCSS.

FTB's previous analysis, however, pointed out that FTB is designing and developing a new accounts receivable system for recovering delinquent payments due under the personal income tax (PIT) and bank and corporation tax (BCT) laws. This Accounts Receivable Collection System (ARCS) will be an entirely new system for PIT; however, for the BCT, all the ARCS functionality has been implemented in an existing system and transition to ARCS involves only moving the current BCT system to the new PIT ARCS platform. Currently, PIT ARCS is scheduled for implementation during March 2000, with BCT scheduled to move to the PIT ARCS platform by June 2000.

The previous analysis also indicated that to implement the technology necessary for the comprehensive accounts receivable management of the delinquent accounts, staff anticipated PIT ARCS would be modified to accommodate the needs unique to child support delinquency enforcement, and to meet the deadline of having the technology operational by July 1, 2001, which would divert resources to the Child Support ARCS and delay both PIT and BCT ARCS.

However, after closer review of the ARCS projects, it now appears that only BCT ARCS would be delayed by the enactment of this bill. The diversion of resources would delay the BCT ARCS project from June 2000 to between April and June 2001, but this delay would not adversely affect the efficiency or effectiveness of tax collection or the treatment of taxpayers.

BOARD POSITION

Pending.